

Mail Stop Interference  
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Filed: 17 November 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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BRIAN L. BATES,  
SCOTT E. BOATMAN, DAVID G. BURTON,  
MICHAEL C. HOFFA,  
DARIN G. SCHAEFFER, JASON S. STURGEON, and  
ANTHONY O. RAGHEB  
Junior Party  
(Patent 7,803,149),

v.

ULRICH SPECK  
and BRUNO SCHELLER,  
Senior Party  
(Application No. 11/763,125),

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Patent Interference No. 105,787  
(Technology Center 1600)

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1                    DECLARATION - Bd.R. 203(b)<sup>1</sup>  
2  
3                    Part A. Declaration of interference  
4  
5                    An interference is declared (35 U.S.C. § 135(a)) between the above-identified  
parties. Details of the application(s), patent (if any), reissue application (if any), count(s)

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 and claims designated as corresponding or as not corresponding to the count(s) appear  
2 in Parts E and F of this DECLARATION.

3 Part B. Judge managing the interference  
4 Administrative Patent Judge Sally Gardner Lane has been designated to manage  
5 the interference. Bd. R. 104(a).

6 Part C. Standing order

7 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
8 DECLARATION. The STANDING ORDER applies to this interference.

9 Part D. Initial conference call

10 A telephone conference call to discuss the interference is set for 2:00 p.m. on 13  
11 January 2011 (the Board will initiate the call).

12 No later than four business days prior to the conference call, each party shall  
13 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;  
14 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

15 A sample schedule for taking action during the motion phase appears as Form 2  
16 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to  
17 the conference call and to agree on dates for taking action. A typical motion period  
18 lasts approximately eight (8) months. Counsel should be prepared to justify any request  
19 for a shorter or longer period.

1                   Part E. Identification and order of the parties

2                   Junior Party

3    Named inventors:            Brian L. Bates, Bloomington, IN;  
4                                    Scott E. Boatman, Bloomington, IN;  
5                                    David G. Burton, Bloomington, IN;  
6                                    Michael C. Hoffa, Ellettsville, IN;  
7                                    Darin G. Schaeffer, Bloomington, IN;  
8                                    Jason S. Sturgeon, Solsberry, IN;  
9                                    Anthony O. Ragheb, West Lafayette, IN;  
10  
11  
12  
13  
14  
15  
16  
17

18    Involved Patent:           7,803,149 issued 28 September 2010, from application  
19                                    10/618,977 filed 14 July 2003

20    Title:                       COATED MEDICAL DEVICE  
21  
22    Assignee:                   Cook Incorporated, Med Institute, Inc., and William A Cook  
23                                   Australia Pty Ltd.  
24  
25

26                   Senior Party

27    Named Inventors:           Ulrich Speck, Berlin, GERMANY;  
28                                   Bruno Scheller, Saarbrucken, GERMANY;  
29  
30

1 Involved Application: 11/763,125, filed 17 June 2007

6 Assignee: None available

8 The senior party is assigned exhibit numbers 1001-1999. The junior party is  
9 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party  
10 is responsible for initiating settlement discussions. SO ¶ 126.1.

11

## 12 Part F. Count and claims of the parties

13 Count 1

14 Claim 97 of Speck wherein the lipophilic agent is paclitaxel.

15

16 The claims of the parties are:

17 Bates: 1-23

19 Speck: 97

21

23

24 Speck. 97  
25

26 The claims of the parties which do not correspond to Count 1, and therefore are

27 not involved in the interference, are.

28 Bates: home  
29

30 Speck: none

1 The parties are accorded the following benefit for Count 1:

2

3 Bates: US 60/395,434, filed 12 July 2002

4

5 Speck: US 10/472,844, filed 16 March 2004, now patent 7,750,041  
6 issued 6 July 2010

7

8 PCT/DE01/04782, filed 20 December 2001

9

10 DE 101 15 740, filed 26 March 2001

Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference, see

3 SO ¶ 106.1.1:

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(Application No. 11/763,125)

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(Technology Center 1600)

#### Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite

processing of the request. Please attach a copy of Parts E and F of this

DECLARATION with a hand-drawn circle around the patents and applications for which

a copy of a file wrapper is requested.

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10

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/Sally Gardner Lane/  
Administrative Patent Judge

Enc.

Copy of STANDING ORDER  
Form PTO-850  
Copy of claims of 11/763,125  
Copy of claims of 7,803,149

1 cc (via overnight delivery):  
2

3       Attorney for Bates:

4       Woodard, Emhardt, Moriarty, McNett & Henry LLP  
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6       Indianapolis IN 46204-5137

7  
8       Attorney for Speck:

9  
10      MILLEN, WHITE, ZELANO & BRANIGAN, P.C.  
11      2200 Clarendon Blvd.  
12      Suite 1400  
13      Arlington, VA 22201  
14